

TITLE 145. OKLAHOMA DEPARTMENT OF EMERGENCY MANAGEMENT
CHAPTER 10. ~~DISASTER RELIEF PROGRAMS TO POLITICAL~~
SUBDIVISIONS GUBERNATORIAL DECLARATIONS FOR DISASTER ASSISTANCE

SUBCHAPTER 1. GENERAL

145:10-1-1. Purpose

The purpose of this subchapter is to prescribe the policies and procedures to be followed in implementing 62 O.S. Supp. 1993, § 139.47 as amended by Enrolled Senate Bill No. 1091, signed into law by the Governor on 26 May 1994, delegated to the Oklahoma Department of ~~Civil~~ Emergency Management (~~ODCEM~~OE~~MOEM~~).

145:10-1-2. Definitions

Definitions which apply to individual Subchapters in this chapter are found in those Subchapters. In addition, the following words and terms, when used in this chapter, shall have the following meaning, unless the context clearly indicates otherwise:

~~"Applicant" means local governments and political subdivisions who apply for assistance as a result of a declaration of major disaster or emergency.~~

"Contractor" means any individual, partnership, corporation, agency, or other entity (other than an organization engaged in the business of insurance) performing work by contract for the ~~local government~~ eligible Applicant.

"Designated Area" means any emergency or major disaster-affected portion of the State which has been determined eligible for State Disaster Assistance.

"Director" means the Director, ~~ODCEM~~OE~~MOEM~~, or his/her designee.

"Eligible Applicant" means incorporated cities, towns and counties that apply for assistance as a result of a declaration of major disaster or emergency.

"Emergency" means any occasion or instance for which, in the determination of the Governor, State assistance is needed to supplement local efforts and capabilities to save lives and protect property and public health and safety, or to lessen or avert the threat of a catastrophe in any part of the State of Oklahoma.

~~"State Agency" means any department, independent establishment, Government corporation, or other agency of the executive branch of the State Government.~~

~~"State Coordinating Officer (SCO)" means the person appointed by the Director, or in his absence, the Deputy Director, to coordinate State assistance in an emergency or major disaster.~~

"Governor" means the chief executive officer in the State, or the Acting Governor.

"Governor's Authorized Representatives (GAR)" means the person empowered by the Governor to execute, on behalf of the State, all necessary documents for State Disaster Assistance.

"Gubernatorial Declaration" means any major disaster or emergency declaration made by the Governor to alleviate suffering, protect life and property and provide assistance to eligible Applicants.

"Hazard Mitigation" means any cost-effective measure which will reduce the potential for damage to a facility from a disaster event.

"Local Government" means any county, city, village, town, district or other political subdivision of the State; and includes any rural community, unincorporated town or village, or other public entity for which an application for assistance is made by a county or political subdivision thereof.

"Major Disaster" means any natural catastrophe (including any tornado, storm, high water, winddriven water, earthquake, landslide, mudslide, snow storm, or drought), or regardless of cause, any fire, flood, or explosion, in any part of the State of Oklahoma, which in the determination of the Governor causes damage of sufficient severity and magnitude to warrant major disaster assistance to supplement the efforts and available resources of State and local governmentsState and local resources in alleviating the damage, loss, hardship, or suffering caused thereby.

"Public Assistance" means supplementary State assistance provided to local governmentseligible Applicants other than assistance for the direct benefit of individuals and families. For further information, see subchapters 5, 7 and 9 of this chapter.

"State Agency" means any department, independent establishment, Government corporation, or other agency of the executive branch of the State Government.

"State Coordinating Officer (SCO)" means the person appointed by the Director, or in his/her absence, the Deputy Director, to coordinate State assistance in an emergency or major disaster.

145:10-1-3. Policy

It is the policy of ~~ODEM~~ OEEM to provide an orderly and continuing means of assistance by the State government to ~~local governments~~ eligible Applicants in carrying out their responsibilities to alleviate the suffering and damage that result from major disasters and emergencies by:

- (1) Providing State assistance programs for public losses and needs sustained in disasters;
- (2) Encouraging the development of comprehensive disaster preparedness and assistance plans, programs, capabilities, and organizations by the State and local governments;
- (3) Achieving greater coordination and responsiveness of disaster preparedness and relief programs;
- (4) Encouraging individuals and local governments to obtain

insurance coverage and thereby reduce their dependence on governmental assistance; and

(5) Encouraging hazard mitigation measures, such as development of land-use and construction regulations, floodplain management, protection of wetlands, and environmental planning, to reduce losses from disasters.

145:10-1-4. Assistance by other State agencies

(a) In any declared major disaster, the Director may direct any State agency to utilize its authorities and the resources granted to it under State law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) to support local assistance efforts.

(b) In any declared emergency, the Director may direct any State agency to utilize its authorities and the resources granted to it under State law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) to support emergency efforts by local governments to:

(1) save lives;

(2) protect property, public health and safety; and

(3) lessen or avert the threat of a catastrophe.

(c) Disaster assistance by other State agencies is subject to the coordination of the SCO. State agencies shall provide any reports or information about disaster assistance rendered that the SCO considers necessary and requests from the agencies.

(d) Assistance furnished by any State agency under subsections (a), (b), or (c) of this section is subject to the criteria provided by the Director.

(e) Assistance under subsections (a), (b), or (c) of this section, when directed by the Director, does not apply to nor shall it affect the authority of any State agency to provide disaster assistance independent of the Act.

(f) In carrying out the purposes of the Act, any State agency may accept and utilize, with the consent of the local government, the services, personnel, materials, and facilities of any local government, agency, office, or employee. Such utilization shall not make such services, materials, or facilities State in nature nor make the local government or agency an arm or agent of the State Government.

145:10-1-5. Nonliability

The State Government shall not be liable for any claim based upon the exercise or performance of, or the failure to exercise or perform a discretionary function or duty on the part of a State agency or an employee of the State Government in carrying out the provisions of the Act.

145:10-1-6. Use of local firms and individuals

In the expenditures of State funds for debris removal, distribution of supplies, reconstruction, and other major disaster or emergency assistance activities which may be carried out by contract or agreement, consistent with State and Federal procurement procedures, with private organizations, firms, or individuals, preference shall be given, to the extent feasible and practicable, to those organizations, firms, and individuals residing or doing business primarily in the area affected by such major disaster or emergency. This shall not be considered to restrict the use of State resources in the provision of major disaster assistance under the Act.

145:10-1-7. Nondiscrimination in disaster assistance

(a) State financial assistance to ~~political subdivisions~~ eligible Applicants in this Act is conditioned on full compliance with 44 CFR part 7 Nondiscrimination in Federally-Assisted Programs.

(b) All personnel carrying out State major disaster or emergency assistance functions, including the distribution of supplies, the processing of the applications, and other relief and assistance activities, shall perform their work in an equitable and impartial manner, without discrimination on the grounds of race, color, religion, nationality, sex, age, or economic status.

(c) As a condition of participation in the distribution of assistance or supplies under the Act, or a receiving assistance under the Act, government bodies and other organizations shall provide a written assurance of their intent to comply with regulations relating to nondiscrimination.

(d) The ~~agency~~ State Agency shall make available to employees, applicants, participants, beneficiaries, and other interested parties such information regarding the provisions of this chapter and its applicability to the programs or activities conducted by the ~~agency~~ State Agency, and make such information available to them in such manner as the head of the agency finds necessary to apprise such persons of the protections against discrimination assured them by the Act and this chapter.

145:10-1-8. Standards and reviews

(a) The Director shall establish program standards and assess the efficiency and effectiveness of programs administered under the Act by conducting annual reviews of the activities of State agencies and the ~~State and local governments~~ eligible Applicant(s) involved in a major disaster or emergency response efforts.

(b) In carrying out this provision, the Director may direct State agencies to submit reports relating to their disaster assistance activities. The Director may request similar reports relating to these activities on the part of the ~~State and local governments~~ eligible Applicant(s). Additionally, the Director may conduct independent investigations, studies, and evaluations as

necessary to complete the reviews.

145:10-1-9. Criminal and civil penalties

(a) **Misuse of funds.** Any ~~political subdivision~~ eligible Applicant ~~who~~ that knowingly misapplies the proceeds of cash benefit obtained under the Act may be fined an amount equal to one and one-half times the misapplied amount of the proceeds or cash benefit.

(b) **Civil enforcement.** Whenever it appears that any ~~political subdivision~~ eligible Applicant has violated or is about to violate any provision of the Act, including any civil penalty imposed under the Act, the Attorney General may bring a civil action for such relief as may be appropriate. Such action may be brought in an appropriate district court.

(c) **Referral to Attorney General.** The Director shall expeditiously refer to the Attorney General for appropriate action any evidence developed in the performance of functions under the Act that may warrant consideration for criminal prosecution.

(d) **Civil penalty.** Any ~~political subdivision~~ eligible Applicant ~~who~~ that knowingly violates any order or regulation issued under the Act may be subject to a civil penalty of not more than \$5,000 for each violation.

145:10-1-10. Recovery of assistance

Any ~~political subdivision~~ eligible Applicant ~~who~~ that intentionally causes a condition for which State assistance is provided under the Act or under any other law as a result of a declaration of major disaster or emergency under the Act shall be liable to the State for the reasonable costs incurred by the State in responding to such disaster or emergency to the extent that such costs are attributable to the intentional act or omission of such ~~political subdivision~~ Applicant which caused such condition. Such action shall be brought in an appropriate District Court.

145:10-1-11. Audit and investigations

(a) The Director shall conduct ~~audits~~ fiscal reviews and investigations as necessary to assure compliance with the Act, and in connection therewith may question such persons as may be necessary to carry out such audits and investigations.

(b) For purposes of audits and investigations under this section, ~~ODEM~~ OEM or State auditors, the Governor's Authorized Representative, ~~The~~ the Director or their duly authorized representatives, may inspect any books, documents, papers, and records of any person relating to any activity undertaken or funded under the Act.

SUBCHAPTER 3. THE DECLARATION PROCESS

145:10-3-1. Purpose

The purpose of this subchapter is to describe the process leading to a Gubernatorial declaration of major disaster or an emergency and the actions triggered by such a declaration.

145:10-3-2. Definitions

All definitions in 145:10-1-2 apply to this Subchapter. In addition, the following words or terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"**Appeal**" means a request for reconsideration of a determination on any action related to State assistance. Specific procedures for appeals are contained in the relevant subchapters of this chapter.

"**Incident**" means any condition which meets the definition of major disaster or emergency as set forth in 145:10-1-2 which causes damage or hardship that may result in a Gubernatorial declaration of a major disaster or an emergency.

"**Incident period**" means the time interval during which the disaster-causing incident occurs. No State assistance under the Act shall be approved unless the damage or hardship to be alleviated resulted from the disaster-causing incident which took place during the incident period or was in anticipation of that incident period. The incident period will be established by ODCEMOEM.

145:10-3-3. Preliminary damage assessment

The preliminary damage assessment (PDA) process is a mechanism used to determine the impact and magnitude of damage and the resulting unmet needs of the public sector, and the community as a whole. ~~Information collected is used by the State as a basis for the Governor's request, and by ODCEM to document the recommendation made to the Governor in response to the Declaration request.~~ It is in the best interest of all parties to combine State and local personnel resources by performing a joint PDA prior to the initiation of a request, as follows:.

(1) **Preassessment by the State.** When an incident occurs, or is imminent, which the State official responsible for disaster operations determines may be beyond the ~~local government~~ eligible Applicant(s) capabilities to respond, the State will perform a joint ~~State-Local preliminary damage assessment~~ PDA with the eligible Applicant. ~~It is not anticipated that all occurrences will result in the requirement for assistance; therefore, the State will be~~

~~expected to verify their initial information, in some manner.~~

(2) **Damage assessment teams.** Damage assessment teams will be composed of at least one representative of the ~~Local Government~~eligible Applicant and one representative of the State. Other State agencies, may also be asked to participate, as needed. It is the State's responsibility to coordinate ~~State and local participation in the~~ PDA and to ensure that the participants receive timely notification concerning the schedule. An ~~ODCEMOEM~~ official will brief team members on damage criteria, the kind of information to be collected for the particular incident, and reporting requirements.

(3) **Review of findings.** At the close of the PDA, ~~ODCEMOEM~~ will consult with ~~local official~~the eligible Applicant to discuss findings and reconcile any differences.

(4) **Exceptions.** The requirements for a joint PDA may be waived for those incidents of unusual severity and magnitude that do not require field damage assessments to determine the need for supplemental State assistance under the Act, or in such other instances determined by the Director upon consultation with the ~~local official~~eligible Applicant. It may be necessary, however, to conduct an assessment to determine unmet needs for managerial response purposes.

145:10-3-4. Requests for emergency declarations

(a) When an incident occurs or threatens to occur in the State, which would not qualify under the definition of a major disaster, the ~~Chief Elected Official~~eligible Applicant's highest elected official, or his/her representative in his/her absence, may request that the Governor declare an emergency. The ~~Chief Elected Official~~eligible Applicant's highest elected official should submit the request to the Governor through the Director to ensure prompt acknowledgment and processing.

(b) The basis for the eligible Applicant's highest elected officials ~~Chief Elected Officials~~ request must be the finding that the situation:

(1) Is of such severity and magnitude that effective response is beyond the capability of the ~~affected local government(s)~~eligible Applicant(s) and

(2) Requires supplementary State emergency assistance to save lives and to protect property, public health and safety, or to lessen or avert the threat of a disaster.

(c) In addition to the findings in (b) of this Section, the complete request shall include:

(1) Confirmation that the ~~local jurisdiction~~eligible Applicant has taken appropriate action and directed the execution of the ~~local~~-emergency plan;

(2) Information describing the ~~local~~-efforts and resources

which have been or will be used to alleviate the emergency;

(3) Information describing other ~~local~~ efforts and resources which have been or will be used in responding to this incident.

(d) The requirement for a ~~local~~ request under subsection (a) of this section can be waived when an emergency exists for which the primary responsibility rests in the State government because the emergency involves a subject area for which, under the Constitution or laws of the State of Oklahoma exercises exclusive or preeminent responsibility and authority. Any party may bring the existence of such a situation to the attention of the ~~ODEM~~ OCMOEM Director. In determining that such an emergency exists, the Director shall consult the Governor.

(e) It is not intended for an emergency declaration to preempt other state authorities and/or established plans and response mechanisms in place prior to the enactment of the act.

(f) The request must be submitted within 30 days after the occurrence of the incident in order to be considered.

145:10-3-5. Requests for major disaster declarations

(a) When a ~~catastrophe~~ incident occurs in the State, the eligible Applicant's highest elected official ~~Chief Elected Official~~ of the affected jurisdiction or his/her representative may request a major disaster declaration. The eligible Applicant's highest elected official ~~Chief Elected official~~ should submit the request to the Governor through the Director to ensure prompt acknowledgment and processing.

(b) This basis for the request shall be a finding that:

(1) The situation is of such severity and magnitude that effective response is beyond the capabilities of the ~~affected local governments~~ eligible Applicant(s); and

(2) State assistance under the Act is necessary to supplement the efforts and available resources of the ~~local governments~~ eligible Applicant(s), and compensation by insurance for disaster-related losses.

(c) In addition to the findings in (b) of this Section, the complete request shall include:

(1) Confirmation that the ~~Chief Elected Official~~ eligible Applicant's highest elected official has taken appropriate action and directed the execution of the ~~local~~ emergency plan;

(2) An estimate of the amount and severity of damages and losses stating the impact of the disaster on the public sector;

(3) Information describing the nature and amount of ~~State and local~~ resources which have been or will be committed to alleviate the results of the disaster;

(4) Preliminary estimates of the types and amount of supplementary State disaster assistance needed under the Act.

(d) The request must be submitted within 30 days of the occurrence of the incident in order to be considered.

145:10-3-6. Processing requests for declarations of a major disaster or emergency

(a) **Acknowledgment.** The Director shall provide written acknowledgment of the ~~local~~ eligible Applicant's request.

(b) **ODCEMOEM recommendation.** Based on all available information, the Director shall formulate a recommendation which shall be forwarded to the Governor or his/her representative with the ~~local~~ eligible Applicant's request.

(1) **Major disaster recommendation.** The major disaster recommendation will be based on a finding that the situation is or is not of such severity and magnitude as to be beyond the capabilities of the ~~local governments~~ eligible Applicant(s). It will also contain a determination of whether or not supplemental State assistance under the Act is necessary and appropriate. In developing a recommendation, ODCEMOEM will consider such factors as:

(A) the amount and type of damages;

(B) the impact of damages ~~on affected individuals, the State, and local governments;~~

(C) the ~~available~~ availability of resources of the State and local governments, and other disaster relief organizations;

(D) the extent and type of insurance in effect to cover losses;

(E) assistance available from other State programs and other sources;

(F) imminent threats to public health and safety;

(G) recent disaster history in the State;

(H) hazard mitigation measures taken by the State or ~~local governments~~ the eligible Applicant(s), especially implementation of measures required as a result of previous major disaster declarations; and

(I) other factors pertinent to a given incident.

(2) **Emergency recommendation.** The emergency recommendation will be based on a ~~report~~ the findings which will indicate whether or not State emergency assistance is necessary ~~to supplement local efforts to save lives, protect property and public health and safety, or to lessen or avert the threat of a catastrophemajor disaster.~~ Only after it has been determined that all other resources and authorities available to meet the crisis are inadequate, and that assistance would be appropriate, will ODCEM recommend an emergency declaration

~~to the Governor.~~

~~(c) **Modified State emergency recommendation.** The modified State emergency recommendation will be based on a report which will indicate that an emergency does or does not exist for which assistance would be appropriate.~~

145:10-3-7. Gubernatorial determination

(a) The ~~local~~ eligible Applicant's request for a major disaster declaration may result in either a Governor's declaration of a major disaster or ~~an emergency, or~~ denial of the ~~local~~ request.

(b) The ~~local~~ eligible Applicant's request for an emergency declaration may result ~~only in either~~ a Governor's declaration of an emergency, or denial of the request.

145:10-3-8. Notification

(a) The eligible Applicant's highest elected official ~~Chief Elected Official of the affected jurisdiction~~ will be promptly notified by the Director or his/her designee of a declaration by the Governor that an emergency or a major disaster exists. ~~ODCEMOEM~~ also will notify other state agencies and other interested parties.

(b) The eligible Applicant's highest elected official ~~Chief Elected Official of the affected jurisdiction~~ will be promptly notified by the Director or his/her designee of a determination that the request does not justify the use of the authorities of the Act.

(c) Following a major disaster or emergency declaration, the Director will promptly notify the eligible Applicant's highest elected official ~~Chief Elected Official of the affected jurisdiction~~ of the designations of assistance and areas eligible for such assistance.

145:10-3-9. Designation of affected areas

(a) **Areas eligible to receive assistance.** The Director also has been delegated authority to designate ~~the disaster-affected~~ areas eligible for supplementary State assistance under the Act. A ~~disaster-affected area designated by the Director~~ includes all local government jurisdictions within its boundaries. The Director may, based upon damage assessments in any given area, designate all or only some of the areas requested by the ~~Chief Elected Official of the affected jurisdiction or for supplementary State assistance.~~

(b) **Requests for additional designations after a declaration.** After a declaration by the Governor, requests that additional areas or types of supplementary State assistance may be authorized by the Director. Such requests shall be accompanied by appropriate verified assessments and commitments by ~~local governments~~ eligible Applicant(s) to demonstrate that the requested designations are justified and that the unmet needs are beyond local capabilities

without supplementary State assistance.

(c) **Time limits to request.** In order to be considered, all supplemental requests under subsection (b) of this section must be submitted within 30 days from the termination date of the incident ~~period, or 30 days after the declaration, whichever is later~~. The 30-day period may be extended by the Director provided that a written request is made by the ~~appropriate local official~~ eligible Applicant's highest elected official during this 30-day period. The request must include justification of the local's inability to meet the deadline.

145:10-3-10. Appointment of disaster officials

(a) **State Coordinating Officer.** Upon a declaration of a major disaster or of an emergency, the Governor ~~of the affected State~~ shall designate a State Coordinating Officer (SCO) who shall coordinate ~~local disaster assistance efforts with those of the State Government~~ all State assistance.

(b) **Governor's Authorized Representative.** The Governor shall designate the Governor's Authorized Representative (GAR), who shall administer disaster assistance programs on behalf of the ~~State~~ Governor. The GAR is responsible for the State and local compliance.

145:10-3-11. Responsibilities of coordinating officers

Following a declaration of a major disaster or an emergency, the SCO shall:

- (1) Make an initial appraisal of the types of assistance most urgently needed;
- (2) Establish field offices as necessary to coordinate and monitor assistance programs, ~~and disseminate information, and accept applications.~~
- (3) Coordinate the administration of relief, ~~including activities of State and local governments.~~
- (4) Undertake appropriate action to make certain that all of the State agencies are carrying out their appropriate disaster assistance roles under their own legislative authorities and operational policies; and
- (5) Take other action, consistent with the provisions of the Act, as necessary to assist citizens and public officials in promptly obtaining assistance to which they are entitled.

145:10-3-12. Emergency support teams

The State Coordinating Officer may activate emergency support teams, composed of State program and support personnel, to be deployed into an area affected by a major disaster or emergency. These emergency support teams assist the SCO in carrying out his/her responsibilities. Any State ~~agency~~ Agency

can be directed to detail personnel within the agency's administrative jurisdiction to temporary duty with SCO approval. Each detail shall be without loss of seniority, pay, or other employee status.

145:10-3-13. Appeals

(a) **Denial of declaration request.** When a request for a major disaster declaration or for any emergency declaration is denied, the eligible Applicant's highest elected official~~Chief Elected Official of the affected jurisdiction~~ may appeal the decision. An appeal must be made within 30 days after the date of the letter denying the request. This one-time request for reconsideration, along with appropriate additional information, is submitted to the Governor through the Director.~~The processing of this request is similar to the initial request.~~

(b) **Extension of time to appeal.** The 30-day period referred to in subsection (a) of this section may be extended by the Director provided that a written request for such an extension, citing reasons for the delay, is made during this 30-day period, and if the Director agrees that there is a legitimate basis for extension of the 30-day period. Only the eligible Applicant's highest elected official~~Chief Elected Official of the affected jurisdiction~~ may request a time extension for appeals covered in subsection (a) of this section.

SUBCHAPTER 5. PUBLIC ASSISTANCE PROJECT ADMINISTRATION

145:10-5-1. General

(a) **Purpose.** This subchapter establishes procedures for the administration of Public Assistance grants approved under the provisions of the Act.

(b) **Policy.** It is a requirement of the Act that, in the administration of the Public Assistance Program, eligible assistance be delivered as expeditiously as possible consistent with State laws and regulations.

145:10-5-2. Definitions

The following words or terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Eligible Applicant" means a ~~local government, or political subdivision~~an incorporated city, town or county submitting an application for assistance under the State's grant.

"Emergency work" means that work which must be done immediately to save lives and to protect improved property and public health and safety, or to avert or lessen the threat of a major disaster.

"Facility" means any publicly owned building, works, system,

or equipment, built or manufactured, or an improved and maintained natural feature. Land used for agricultural purposes is not a facility.

"**Grant**" means an award of financial assistance. The grant award shall be based on the total eligible State share of all approved projects.

"**Grantee**" means the ~~government-eligible Applicant~~ to which a grant is awarded which is accountable for the use of the funds provided. ~~The grantee is the entire legal entity even if only a particular component of the entity is designated in the grant award document.~~

"**Hazard mitigation**" means any cost effective measure which will reduce the potential for damage to a facility from a disaster event.

~~"Individual project" means "Project", as defined in this Section.~~

"**Permanent work**" means that restorative work that must be performed through repairs or replacement, to restore and eligible facility on the basis of its predisaster design and current applicable standards.

"**Predisaster design**" means the size or capacity of a facility as originally designed and constructed or subsequently modified by changes or additions to the original design. It does not mean the capacity at which the facility was being used at the time the major disaster occurred if different from the most recent designed capacity.

"**Project Worksheet (PW)**" means an OEM document capturing all work performed at a single or multiple site-sites and eligible for assistance under this Act. ~~whether or not described on a single Damage Survey Report (DSR). See also definition of "Individual project" in this Section.~~

"**Project Worksheet approval**" means the process where the Director signs an approval of work and costs on a ~~DSR or group of DSR's~~ PW. Such approval is also an obligation of funds to the ~~grantee~~ Grantee.

145:10-5-3. Application procedures

(a) **General.** This section describes the policies and procedures for processing grants for State disaster assistance. The State is responsible for processing grants to applicants in accordance with its own policies and procedures.

(b) **Grantee.** The Grantee serves as the grant administrator for all funds provided under the State Public Assistance grant program. The Grantee's responsibilities as they pertain to procedures outlined in the section include providing local support and submission of those documents necessary for grants award.

(c) **Per Capita Indicator.** The Grantee must provide evidence their level of damage has exceeded their indicator. The Grantee indicator is derived from the calculated result of the current year Federal Emergency Management Agency ("FEMA") County Per Capita Indicator multiplied by the latest census of the Grantee's population.

(ed) **Notice of Interest Intent (NOI).** The Grantee must submit to the Director a completed NOI (ODCEM Form 94-01) for requesting assistance. NOI's must be submitted to the Director within 30 days following designation of the area in which the damage is located. The Grantee must submit to the Director, within 30 days following designation of the area in which damage is located, a letter on official letterhead and contain the following:

(1) Evidence the Grantee indicator has been met or exceeded

(2) Identification of damage

(3) Recovery cost or estimate

(4) Economic impact to the jurisdiction's budget

(de) **Damage Survey Reports (DSR's) Project Worksheet (PW).** Damage surveys are conducted by an inspection team. An authorized local representative accompanies the inspection team and is responsible for representing the applicant and ensuring that all eligible work and costs are identified. The inspectors prepare a Damage Survey Report Data Sheet (ODCEM Form 94-01), for each site. On the Damage Survey Report Data Sheet the inspectors will identify the eligible scope of work and prepare a quantitative estimate for the eligible work. Any damage that is not shown to the inspection team during its initial visit shall be reported in writing to the Director by the Grantee within 60 days following completion of the initial visit. A Project Worksheet will be formulated following policies and procedures established by OEM. A PW will identify the eligible scope of work and a quantitative estimate for the eligible work. All PWs will be written using the current FEMA Public Assistance eligibility criteria.

(ef) **Grant approval.** Upon completion of the field surveys the Damage Survey Report Data Sheets are reviewed and action is taken by the Director. This will be done within 45 days of the date of inspection or a written explanation of any delay will be provided to the grantee. Prior to the obligation of any funds the Grantee shall submit a Standard Form ODCEM 424, Application for Assistance, and ODCEM 424-D, Assurances for Construction Programs, to the Director. Following receipt of the ODCEM 424 and 424D, the Director will then obligate funds to the grantee based upon the approved DSR's. The Director will provide NOI approval or denial notification to the Grantee within 60 days from the date of the NOI. If approved,

all eligible PWs will be written and approved by the Director within 60 days of the date of the Director's approval notification or from the date OEM receives all needed documentation to formulate the PW from the Grantee. The Director shall have the authority to withdraw grant approval if all required documentation is not submitted by the Grantee to OEM within 30 days of the date of the Director's approval notification.

(f) **Exception.** The time limitations shown in subsections (c) and (d) of this section may be extended by the Director when justified and requested in writing by the Grantee. Such justification shall be based on extenuating circumstances beyond the gGrantee's control.

145:10-5-4. State grant assistance

(a) **General.** This section describes the types and extent of State funding available under State disaster assistance grants, as well as limitations and special procedures applicable to each.

(b) ~~Project—funding~~**Funding.** A Grantee shall only be eligible to receive one Gubernatorial Declaration per calendar year.

~~(1) **Large projects.** When the approved estimate of eligible costs for an individual project is \$50,000 or greater. State funding shall equal the actual eligible costs documented by a grantee. Such \$50,000 amount shall be adjusted annually to reflect changes in the Consumer Price Index for All Urban Consumers published by the Department of Labor.~~

~~(2) **Small projects.** When the approved estimate of costs for an individual project is less than \$50,000 State funding shall equal the approved estimate of eligible costs. Such \$50,000 amount shall be adjusted annually as indicated in paragraph (b)(1) of this section.~~

(c) ~~Funding options.~~**Annual maximum.** Funding provided to a Grantee through the State Public Assistance Program shall not exceed one hundred thousand dollars (\$100,000.00) in a calendar year.

~~(1) **Improved projects.** If a grantee desires to make improvements, but still restore the predisaster function of a damaged facility, the Director's approval must be obtained. State funding for such improved projects shall be limited to the approved estimate of eligible costs.~~

~~(2) **Alternate projects.** In any case where a grantee determines that the public welfare would not be best served by restoring a damaged public facility or the function of that facility, the Grantee may request that the Director approve an alternate project.~~

~~(A) The alternate project option may be taken only on permanent restorative work.~~

~~(B) Funding for such alternate projects shall equal 90 percent of the approved estimate of eligible costs.~~

~~(C) Funds contributed for alternate projects may be used to repair or expand other selected public facilities, to construct new facilities, or to fund hazard mitigation measures.~~

~~(D) Prior to the start of construction of any alternate project the Grantee shall submit for approval by the Director the following: a description of the proposed alternate project(s); a schedule of work; and the projected cost of the project(s). The Grantee shall also provide the necessary assurances to document compliance with special requirements, including, but not limited to floodplain management, environmental assessment, hazard mitigation, protection of wetlands, and insurance.~~

(d) **Cost Share.** Funding of the State Public Assistance Program is to be shared by the Grantee and the State. The State shall be responsible for 75 percent of total cost, of which may not exceed one hundred thousand dollars (\$100,000.00). The Grantee shall be responsible for the remaining 25 percent of total cost.

(e) **Delinquency.** A Grantee delinquent in owing the State funds received through the FEMA Public Assistance Program or previous Gubernatorial declarations may not be eligible to receive Gubernatorial declaration funding until all outstanding payments have been paid to the State.

145:10-5-5. Project Worksheet performance validation

(a) **General.** This section describes the policies and procedures applicable during the ~~performance of eligible work~~ project worksheet validation.

~~(b) **Advances of funds.** Advances of funds will be made in accordance with 145:10-5-4 (b)(1) and (2).~~

~~(e)~~ **Time limitations for completion of work.**

(1) **Deadlines.** The PW ~~project~~ completion deadlines shown below are set from the date that a major disaster or emergency is declared and apply to all ~~projects~~ PWs approved under State disaster assistance grants:

(A) Debris clearance - 6 months

(B) Emergency work - 6 months

(C) Permanent work - 18 months

(2) **Exceptions.** The State may impose lesser alternate deadlines for the completion of work. ~~(A) under~~

~~paragraph (c)(1) of this section if considered appropriate.~~

~~(B) Based on extenuating circumstances or unusual project requirements beyond the control of the Grantee the Director may extend the deadlines under paragraph (c)(1) of this section for an additional 6 months for debris clearance and emergency work and an additional 30 months, on a project by project basis for permanent work.~~

(dc) Requests for time extensions. Requests for time extensions shall be submitted by the Grantee to the ~~Director~~ SCO and shall include the following:

(1) The dates and provisions of all previous time extensions on the ~~project~~ PW; and

(2) A detailed justification for the delay and a projected completion date. The ~~Director~~ SCO shall review the request and make a determination. The Grantee shall be notified of the ~~Director's~~ SCO's determination in writing. If the ~~Director~~ SCO approves the request, the ~~letter notification~~ shall reflect the approved completion date and any other requirements the ~~Director~~ SCO may determine necessary to ensure that the new completion date is met. If the ~~Director~~ SCO denies the time extension request, the ~~grantee~~ Grantee may, upon completion of the ~~project~~ PW, be reimbursed for eligible ~~project~~ PW costs incurred only up to the latest approved completion date. If the ~~project~~ PW is not completed, no State funding will be provided for that ~~project~~ PW.

(ed) Cost Overruns. During the execution of approved work a ~~grantee~~ Grantee may find that actual ~~project~~ PW costs are exceeding the approved ~~DSR~~ PW estimates.

(1) Such cost overruns normally fall into the following three categories:

(A) Variations in unit prices;

(B) Change in the scope of eligible work; or

(C) Delays in timely starts or completion of eligible work.

(2) The ~~grantee~~ Grantee shall evaluate each cost overrun and, when justified, submit a request for additional funding to the ~~Director~~ SCO for final determination. All requests for the ~~Director's~~ SCO's approval shall contain sufficient documentation to support the eligibility of claimed work and costs. The ~~grantee~~ Grantee shall include a written recommendation when forwarding the request. The Director shall notify the Grantee in writing of the final determination, ~~OCDEM will not normally review an overrun for an individual small project. The normal procedure for small projects will be that when a grantee discovers a significant overrun related to the total final cost for all small~~

~~projects, the.~~ The grantee ~~Grantee~~ may submit an appeal for additional funding in accordance with ~~145:10-5-6~~ 145:10-5-7, within 60 days following the completion of all of its ~~small projects~~ PWs. Funding shall not exceed the annual maximum.

~~(fe)~~ **Progress reports.** Progress reports will be submitted by the Grantee to the ~~Director-SCO~~ quarterly. ~~The Director and Grantee shall negotiate the date for submission of the first report. The first quarterly report shall be due the first quarter subsequent to receiving the award.~~ Such reports will describe the status of those ~~projects~~ PWs on which a final payment has not been made to the ~~grantee~~ Grantee and outline any ~~problems~~ issues or circumstances expected to result in noncompliance with the approved grant conditions.

145:10-5-6. Payment of claims

(a) **Payment.** PWs may be paid up to the PW estimate at the Director's discretion.

~~(b) Small projects.~~ Final payment of small projects shall be made to the Grantee upon approval of the project. The State shall make payment to the grantee as soon as practicable after approval of funding. **Timing.** Payment should be made by the State to the Grantee as soon as practicable after approval of funding. Prior to the ~~closeout~~ validation of the disaster contract PW, the Grantee shall certify that all such projects were completed ~~in~~ in the completed PWs are in accordance with ~~ODCEM~~ OEM approvals. ~~The payment for small projects shall not be reduced if all of the approved funds are not spent to complete a project. However, failure~~ Failure to complete a ~~project~~ PW may require that the payment be refunded.

~~(bc)~~ **Large projects.** Account of Work.

(1) If requested by the SCO, ~~The~~ the Grantee shall make an accounting to the ~~Director-SCO~~ of eligible costs for each approved large project PW. In submitting the accounting the Grantee shall certify that reported costs were incurred in the performance of eligible work, that the approved work was completed and that the ~~project~~ PW is in compliance. Each ~~large project~~ PW shall be submitted as soon as practicable after the ~~grantee~~ Grantee has completed the approved work and requested payment.

(2) The Director-SCO shall review the accounting to determine the eligible amount of reimbursement for each large project PW and approve eligible costs. If a discrepancy between reported costs and approved funding exists, the ~~Director-SCO~~ may conduct field reviews to gather additional information. If discrepancies in the claim cannot be resolved through a field review, a State audit may be conducted and funds may be recovered by the State. If the ~~Director-SCO~~ determines that eligible costs

exceed the initial approval, he/she will obligate additional funds as necessary up to the annual maximum.

145:10-5-7. Appeals

(a) **Grantee.** The ~~grantee~~Grantee may appeal any determination previously made related to State assistance including a time extension determination made by the ~~grantee~~Grantee. The ~~grantee~~Grantee's appeal shall be made in writing and submitted to the Director within 60 days after receipt of notice of the action which is being appealed. The appeal shall contain documented justification supporting the ~~grantee~~Grantee's position.

(b) **Director.** Upon receipt of an appeal, the Director shall review the material submitted and make such additional investigations as deemed appropriate. Within 90 days following receipt of an appeal, the Director shall notify the Grantee, in writing, as to the disposition of the appeal or of the need for additional information. Within 90 days following the receipt of such additional information, the Director shall notify the ~~grantee~~Grantee, in writing, of the disposition of the appeal. If the decision is to grant the appeal, the Director will take appropriate implementing action.

145:10-5-8. Audit requirements

All audit requirements for this program are consistent with Federal and State audit requirements for public grants.

SUBCHAPTER 7. PUBLIC ASSISTANCE ELIGIBILITY

145:10-7-1. General

This subchapter provides policies and procedures for determinations of eligibility of applicants for public assistance, eligibility of work, and eligibility of costs for assistance under the Act. Assistance under this subchapter must also conform to requirements of Subchapter 5-Public Assistance Project Administration and 9-Public Assistance Insurance Requirements. Regulations concerning Floodplain Management and Environmental Considerations, also apply to this assistance.

145:10-7-2. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"**Force account**" means an applicant's own labor forces and equipment.

"**Immediate threat**" means the threat of additional damage or destruction from an event which can reasonably be expected to occur within five years.

"**Improved property**" means a structure, facility or item of

equipment which was built, constructed or manufactured. Land used for agricultural purposes is not improved property.

"**Public entity**" means an organization formed for a public purpose whose direction and funding are provided by one or more political subdivisions of the State.

"Facility" means any publicly owned building, works, system, or equipment, built or manufactured, or an improved and maintained natural feature. Land used for agricultural purposes is not a facility.

~~"Public facility" means the following facilities owned by a local government:~~

~~(A) any flood control, navigation, irrigation, reclamation, public power, sewage treatment and collection, water supply and distribution, watershed development, or airport facility; any~~

~~(B) non Federal aid, street, road, or highway; and~~

~~(C) any other public building, structure, or system.~~

"**Standards**" means codes, specifications or standards required for the construction of facilities.

145:10-7-3. Applicant eligibility

The following entities are eligible to apply for assistance under the State public assistance grant:

- ~~(1) Local governments.~~Incorporated cities and towns
- ~~(2) Other political subdivisions.~~Counties

145:10-7-4. General work eligibility

(a) **General.** To be eligible for financial assistance, an item of work must be:

- ~~(1) Be required~~Required as the result of the major disaster event,
- ~~(2) Be located~~Located within a designated disaster area, and
- ~~(3) Be the~~The legal responsibility of an eligible applicant.Applicant.

~~(b) **Public entities.** Facilities belonging to a public entity may be eligible for assistance when the application is submitted through the State or a political subdivision of the State.~~

~~(c) **Negligence.** No assistance will be provided to an applicant eligible Applicant for damages caused by its own negligence. If negligence by another party results in damages, assistance may be provided, but will be conditioned on agreement by the applicant eligible Applicant to cooperate with ODC&MOEM in all efforts necessary to recover the cost of such assistance from the negligent party.~~

145:10-7-5. Debris removal

(a) **Public interest.** Upon determination that debris removal is in the public interest, the ~~Director~~SCO may provide assistance

for the removal of debris and wreckage from publicly and privately owned lands and waters. Such removal is in the public interest when it is necessary to:

(1) Eliminate immediate threats to life, public health, and safety; or

(2) Eliminate immediate threats of significant damage to improved public or private property; or

(3) Ensure economic recovery of the affected community to the benefit of the community-at-large.

(b) **Debris removal from private property.** When it is in the public interest for an eligible ~~applicant~~ Applicant to remove debris from private property in urban, suburban and rural areas, including large lots, clearance of the living, recreational and working area is eligible except those areas used for crops and livestock or unused areas. The Grantee will ensure that the rights of the property owner are met through documentation and notification.

(c) **Assistance to individuals and private organizations.** No assistance will be provided directly to an individual or private organizations, or to an eligible ~~applicant~~ Applicant for reimbursement of an individual or private organization, for the cost of removing debris from their own property.

145:10-7-6. Emergency work

(a) ~~General-~~

~~(1)~~ Emergency protective measures to save lives, to protect public health and safety, and to protect improved property are eligible.

~~(2b)~~ In determining whether emergency work is required, the ~~Director~~ SCO may require certification by local officials that a threat exists, including identification and evaluation of the threat and recommendations of the emergency work necessary to cope with the threat.

~~(3c)~~ In order to be eligible, emergency protective measures must:

~~(A1)~~ Eliminate or lessen immediate threats to livelife, public health or safety; or

~~(B2)~~ Eliminate or lessen immediate threats of significant additional damage to improved public or private property through measures which are cost effective.

~~(b) Emergency access.~~ An access facility that is not publicly owned or is not the direct responsibility of an eligible ~~applicant~~ for repair or maintenance may be eligible for emergency repairs or replacement provided that emergency repair or replacement of the facility economically eliminates the need for temporary housing. The work will be limited to that necessary for the access to remain passable through events which can be

~~considered an immediate threat. The work must be performed by an eligible applicant and will be subject to cost sharing requirements.~~

~~(c) **Emergency communications.** Emergency communications necessary for the purpose of carrying out disaster relief functions may be established and may be made available to local government officials as deemed appropriate. Such communications are intended to supplement but not replace normal communications are intended to supplement but not replace normal communications that remain operable after a major disaster. ODCEM funding for such communications will be discontinued as soon as the needs have been met.~~

~~(d) **Emergency public transportation.** Emergency public transportation to meet emergency needs and to provide transportation to public places and such other places as necessary for the community to resume its normal pattern of life as soon as possible is eligible. Such transportation is intended to supplement but not replace predisaster transportation facilities that remain operable after a major disaster. ODCEM funding for such transportation will be discontinued as soon as the needs have been met.~~

145:10-7-7. Restoration of damaged facilities

Work to restore eligible facilities on the basis of the design and function of such facilities as they existed immediately prior to the disaster and in conformity with the following is eligible:

(1) **Assistance under other State or Federal agency programs.** Generally, disaster assistance will not be made available under the Act when another State or Federal agency has specific authority to restore facilities damaged or destroyed by an event which is declared a major disaster.

(2) **Standards.** For the costs of State, and local repair or replacement standards which change the predisaster design and construction of facility to be eligible, the standards must meet Federal and State guidelines.+

~~(A) Apply to the type of repair or restoration required (Standards may be different for new construction and repair work);~~

~~(B) Be appropriate to the predisaster use of the facility;~~

~~(C) Be in writing and formally adopted by the applicant prior to project approval or be a legal State requirement applicable to the type of restoration;~~

~~(D) Apply uniformly to all similar types of facilities within the jurisdiction of owner of the facility; and~~

~~(E) For any standard in effect at the time of a~~

~~disaster, it must have been enforced during the time it was in effect.~~

(3) **Hazard mitigation.** In approving grant assistance for restoration of facilities, the ~~Director~~ SCO may require cost effective hazard mitigation measures not required by applicable standards. The cost of any requirements for hazard mitigation placed on restoration projects by ~~ODEM~~ OEM will be an eligible cost for ~~ODEM~~ State assistance, not to exceed the cumulative annual maximum allowed.

(4) **Repair vs. replacement.**

(A) A facility is considered repairable when disaster damages do not exceed 50 percent of the cost of replacing a facility to its predisaster condition, and it is feasible to repair the facility so that it can perform the function for which it was being used as well as it did immediately prior to the disaster.

(B) If a damaged facility is not repairable in accordance with paragraph (d)(1) of this section, approved restorative work may include replacement of the facility. The ~~applicant-eligible~~ Applicant may elect to perform repairs to the facility, in lieu of replacement, if such work is in conformity with applicable standards. However, eligible costs shall be limited to the less expensive of repairs or replacement.

(C) An exception to the limitation in paragraph (d)(2) of this section may be allowed for facilities eligible for or on the National Register of Historic Properties. If an applicable standard requires repair in a certain manner, costs associated with that standard will be eligible.

(5) **Relocation.**

(A) The ~~Director~~ SCO may approve funding for and require restoration of a destroyed facility at a new location when:

(i) The facility is and will be subject to repetitive heavy damage;

(ii) The approval is not barred by other provisions.

(iii) The overall project worksheet (PW), including all costs, is cost effective.

(B) When relocation is required by the ~~Director~~ SCO, eligible work includes land acquisition and ancillary facilities such as roads and utilities, in addition to work normally eligible as part of a facility reconstruction. Demolition and removal of the old facility is also an eligible cost.

(C) When relocation is required by the ~~Director~~ SCO, no future funding for repair or replacement of a facility

at the original site will be approved.

(D) When relocation is required by the ~~Director~~SCO, and, instead of relocation, the ~~applicant~~eligible Applicant's requests approval of an "alternate project", eligible costs will be limited to 90 percent of the estimate of restoration at the original location excluding hazard mitigation measures.

(E) If relocation of a facility is not feasible or cost effective, the ~~Director~~SCO shall disapprove funding for the original location when he/she determines that restoration in the original location is not allowed. In such cases, an alternate project may be applied for.

(6) **Equipment and furnishings.** If equipment and furnishings are damaged beyond repair, comparable items are eligible as replacement items.

(7) **Library books and publications.** Replacement of library books and publications is based on an inventory of the quantities of various categories of books or publications damaged or destroyed. Cataloging and other work incidental to replacement are eligible.

(8) **Beaches.**

(A) Replacement of sand on an unimproved natural beach is not eligible.

(B) **Improved beaches.** Work on an improved beach may be eligible under the following conditions:

(i) The beach was constructed by the placement of sand (of proper grain size) to a designed elevation, width, and slope; and

(ii) A maintenance program involving periodic renourishment of sand must have been established and adhered to by the applicant.

(9) **Restrictions.**

(A) **Alternative use facilities.** If a facility was being used for purposes other than those for which it was designed, restoration will only be eligible to the extent necessary to restore the immediate predisaster alternate purpose.

(B) **Inactive facilities.** Facilities that were not in active use at the time of the disaster are not eligible except in those instances where the facilities were only temporarily inoperative for repairs or remodeling, ~~or where active use by the applicant was firmly established in an approved budget or the owner can demonstrate to ODCEM's satisfaction an intent to begin use within a reasonable time.~~

145:10-7-8. Snow removal assistance

~~Thru traffic lanes of collector roads and streets; minor~~

arterial roads and streets; and principal arterial; and tracks and rights of way of urban mass transit systems as necessary for the continuation or resumption of services; and roads and streets, are defined for purposes of snow removal assistance as:

(1) ~~Collector roads and streets~~ means local roads and streets which serve thru traffic and provide access to higher type roads and facilitate community activities but are primarily of local interest.

(2) ~~Minor arterial roads and streets~~ means roads and streets which serve thru traffic and provide access of higher type roads, connecting communities in nearby areas in addition to serving adjacent property.

(3) ~~Principal arterial~~ means roads and streets which serve thru traffic and are of statewide interest. They carry high volumes of traffic between population centers and are designed to facilitate traffic movement with limited land access. It also means roads and streets which serve thru traffic only and provide no access to abutting property. Snow removal assistance under this Act will be consistent with current Federal guidelines and policy.

145:10-7-9. Allowable costs

General policies for determining allowable costs are explained below. Reimbursement for ownership and operation costs of applicant-owned equipment used to perform eligible work shall be provided in accordance with the following guidelines. Policy for determining allowable costs of eligible Applicant-owned equipment used to perform eligible work will be in accordance with current FEMA Cost Codes for the State. +

(1) ~~Rates established under State guidelines.~~ In those cases where an applicant uses reasonable rates which have been established or approved under State guidelines, in its normal daily operations, reimbursement for applicant-owned equipment which has an hourly rate of \$75 or less shall be based on such rates. Reimbursement for equipment which has an hourly rate in excess of \$75 shall be determined on a case by case basis by ODCEM.

(2) ~~Rates established under local guidelines.~~ Where local guidelines are used to establish equipment rates, reimbursement will be based on those rates or rates in a Schedule of Equipment Rates published by ODCEM whichever is lower. If an applicant certifies that its local established rates do not reflect actual costs, reimbursement may be based on the ODCEM Schedule of Equipment Rates, but the applicant will be expected to provide documentation if requested. If an applicant wishes to claim an equipment rate which exceeds the ODCEM Schedule, it must document the basis for that rate and obtain ODCEM approval of an alternate rate.

(3) ~~No established rates.~~ The ODCEM Schedule of Equipment

~~Rates will be the basis for reimbursement in all cases where an applicant does not have established equipment rates.~~

SUBCHAPTER 9. PUBLIC ASSISTANCE INSURANCE REQUIREMENTS

145:10-9-1. General

~~(a) The requirements of this subchapter apply to all assistance provided pursuant to the Act with respect to any major disaster declared by the Governor.~~

~~(b) Insurance requirements prescribed in the subchapter shall apply equally to all eligible applicants.~~

~~(c) Actual and anticipated insurance recoveries shall be deducted from otherwise eligible costs, in accordance with the subchapter.~~

~~(d) The full coverage available under the standard flood insurance policy from the National Flood Insurance Program (NFIP) will be subtracted from otherwise eligible costs for a building and its contents within the special flood hazard area.~~

~~(e) The insurance requirements of this subchapter should not be interpreted as a substitute for various hazard mitigation techniques which may be available to reduce the incidence and severity of future damage.~~

~~145:10-9-2. Definitions~~

~~The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:~~

~~"Assistance" means any form of a State grant under the Act to replace, restore, repair, reconstruct, or construct any facility and/or its contents as a result of a major disaster.~~

~~"Building" means a walled and roofed structure, other than a gas, or liquid storage tank, that is principally above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation.~~

~~"Community" means a political subdivision thereof, which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.~~

~~"National Flood Insurance Program (NFIP)" means the program authorized by the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4001 et seq.~~

~~"Special flood hazard area" means an area having special flood, mudslide, and/or flood-related erosion hazards, and shown on a Flood Hazard Boundary map (FHBM) or the Flood Insurance Rate Map (FIRM) issued by FEMA as Zone A, AO, A1-30, AE, A99, AH, VO, V1-30, VE, V, M, or E.~~

~~"Standard Flood Insurance Policy" means the flood insurance policy issued by the Federal Insurance Administrator, or by a Write Your Own Company pursuant to 44 CFR 62.23.~~

~~145:10-9-3. Insurance requirements for facilities damaged by flood-~~

~~(a) Where an insurable building damaged by flooding is located in a special flood hazard area identified for more than one year by the Director, assistance of the Act shall be reduced. The amount of the reduction shall be the maximum amount of the insurance proceeds which would have been received had the building and its contents been fully covered by a standard flood insurance policy.~~

~~(b) Prior to approval of a State grant for the restoration of a facility and its contents which were damaged by a flood, the Grantee shall notify the Director of any entitlement to an insurance settlement or recovery. The Director shall reduce the eligible costs by the amount of insurance proceeds which the grantee receives.~~

~~(c) The grantee is required to obtain and maintain flood insurance in the amount of eligible disaster assistance, as a condition of receiving State assistance that may be available. This requirement also applies to insurable flood damaged facilities located outside a special flood hazard area when it is reasonably available, adequate, and necessary. However, the Director shall not require greater types and amounts of insurance than are certified as reasonable by the State Insurance Commissioner. The requirement to purchase flood insurance is waived when eligible costs for an insurable facility do not exceed \$5,000.~~

~~145:10-9-4. Insurance requirements for facilities damaged by disasters other than flood-~~

~~(a) Prior to approval of a State grant for the restoration of a facility and its contents which were damaged by a disaster other than flood, the Grantee shall notify the Director of any entitlement to insurance settlement or recovery for such facility and its contents. The Director shall reduce the eligible costs by the actual amount of insurance proceeds relating to the eligible costs.~~

~~(b) Assistance under the Act will be approved only on the condition that the grantee obtain and maintain such types and amounts of insurance as are reasonable and necessary to protect against future loss to such property from the types of hazard which caused the major disaster. The extent of insurance to be required will be based on the eligible damage that was incurred to the damaged facility as a result of the major disaster. The Director shall not require greater types and extent of insurance than are certified as reasonable by the State Insurance Commissioner.~~

~~(c) Due to the high cost of insurance, some applicants may request to insure the damaged facilities under a blanket insurance policy covering all their facilities, an insurance pool arrangement, or some combination of these options. Such an arrangement may be accepted for other than flood damages. However, if the some~~

~~facility is damaged in a similar future disaster, eligible costs will be reduced by the amount of eligible damage sustained on the previous disaster.~~

~~(d) The Director shall notify the Grantee of the type and amount of insurance required. The grantee may request that the State Insurance Commissioner review the type and extent of insurance required to protect against future loss to a disaster damaged facility, the Director shall not require greater types and extent of insurance than are certified as reasonable by the State Insurance Commissioner.~~

~~(e) The requirements of the Act are waived when eligible costs for an insurable facility do not exceed \$5,000. The Director may establish a higher waiver amount based on hazard mitigation initiatives which reduce the risk of future damages by a disaster similar to the one which resulted in the major disaster declaration which is the basis for the application for disaster assistance.~~

~~(f) The Grantee shall provide assurances that the required insurance coverage will be maintained for the anticipated life of the restorative work or the insured facility, whichever is the lesser.~~

~~(g) No assistance shall be provided under the Act for any facility for which assistance was provided as a result of a previous major disaster unless all insurance required by ODCEM as a condition of the previous assistance has been obtained and maintained.~~Public Assistance Insurance requirements are consistent with current FEMA guidelines and policies.